

I. INTRODUCTION

A. Purpose

As provided by KRS 18A.075 and pursuant to KRS 18A.0751(1)(i) the Personnel Board is responsible for promulgating comprehensive administrative regulations for the classified service governing employee grievances and complaints.

II. ADMINISTRATIVE REGULATIONS

A. 101 KAR 1:375

Section 1. Definition; Grievance

A "grievance" is a complaint filed by an employee which concerns some aspect of his conditions of employment over which his cabinet or agency has control and which has occurred or of which the employee has become aware, through the exercise of due diligence, within thirty (30) days prior to filing.

Section 2. General Provisions

1. An employee in the classified service who believes that he has been subjected to unfair or unjust treatment concerning his conditions of employment may file a grievance in accordance with this procedure.
2. A grievance concerning an action which is appealable directly to the board pursuant to KRS 18A.095 may also be filed with the cabinet or agency. The filing of a grievance with the cabinet or agency shall not prohibit the employee from also filing an appeal with the board, or extend the statutory appeal period.
3. An employee utilizing this procedure shall be entitled to file a grievance without interference, coercion, discrimination, or reprisal.
4. An appointing authorities shall inform its employees of the provisions of this administrative regulation, or any modifications in the levels of review that have been approved by the Personnel Board for the employee's cabinet or agency pursuant to Section 4(3) of this regulation.
5. (a) The commissioner shall provide to the employees, through the appointing authorities, a grievance form to be used for the filing of a grievance.

- (b) "Grievance Form" (revised 12/01/92)" is incorporated by reference.
- (c) This form may be inspected, copied or obtained at the Personnel Board, 28 Fountain Place, Frankfort, Kentucky 40601, 8:00 a.m. to 4:30 p.m., Monday through Friday.

Section 3. Procedures

1. A grievance shall be filed with the employee's immediate supervisor within thirty (30) days following occurrence or the employee becoming aware, through the exercise of due diligence, of the action that is the subject of the grievance. If the action or conduct of the first line supervisor is the basis of the employee's grievance, the grievance may be filed with the second line supervisor.
2. An employee shall state in writing the basis of his grievance or complaint together with the corrective action desired. If an employee wishes to submit additional information or documentation, he may attach it to the grievance.
3. If a grievance is filed that alleges discrimination on the basis of race, color, religion, national origin, sex, disability or age forty (40) or over, the recipient of this grievance shall immediately notify the cabinet or agency EEO coordinator to comply with the affirmative action plan.
4. Interviews to evaluate or investigate the grievance outside of normal work hours with the grievant or other employees shall entitle them to compensatory time.
5. Interviews to evaluate or investigate the grievance held with the grievant or other employees shall not require the use of leave time.
6. Parties may have a representative present at each step of the grievance procedure.

Section 4. Grievance Levels

1. Except as provided by Section 3(1) of this administrative regulation, the immediate supervisor shall, upon investigation, issue findings and a decision in writing to the employee within five (5) work days after receipt of the grievance. If the responding supervisor is unable to resolve the complaint to the satisfaction of the employee, the employee may request review of the grievance within two (2) work days of receipt of the decision to the next appropriate level.
2. If the line supervisors are unable to resolve the grievance to the satisfaction of the employee, the employee may request review of the grievance within two (2) work days of receipt of the decision of the final line supervisor to the appointing authority for a final determination. The appointing authority, upon investigation, shall issue findings and a final determination in writing to the employee within ten (10) work days.

3. Unless the time limits have been extended by agreement of the parties, failure of supervisory or management personnel to respond within prescribed time limits shall automatically advance the grievance to the next review level.
4. Any intermediate grievance level may be waived by written agreement of the parties.

Note: In an advisory opinion (93-21) issued by the Executive Branch Ethics Commission it was stated that the Commission believes that the use of state time or state equipment and supplies to pursue a grievance, appeal or complaint is to use one's official position to secure "treatment" for the state employee and further, that such use of one's official position is in derogation of the public interest at large. In addition, the activities described above may well violate KRS 11A.020 (2).